Issue 137

NERA
Economic Consulting

Reporting on energy regulation issues around the world

October 2010

Global Energy Regulation

Contents

EUROPE

UK

Ofgem Publishes RPI-X@20 Decision Document

Ofgem has published its conclusions from the RPI-X@20 review, in which it sets out its final decision on the new "RIIO" model of regulation (Revenue = Incentives + Innovation + Outputs) that it will apply to British energy network companies. Ofgem will apply the RIIO for the first time at the next transmission and gas distribution price control reviews, which are both due to be implemented by April 2013. Ofgem's decision document on RIIO has changed two of the key recommendations Ofgem published in July 2010. It has now decided to retain the retail price index (RPI) rather than the consumer price index (CPI) for indexing network companies' price controls. It has also clarified its recommendation on financeability, to note that it will assess financeability "in the round, including a cross-check against relevant equity metrics and credit rating ratios".
Ofgem website, 04/10/10

New Customer Service Standards and Compensation Arrangements Come Into Force

Ofgem will require electricity distribution network operators (DNOs) to meet new customer service standards in providing connections, or pay compensation if they do not. The standards, which took effect on 1 October 2010, set deadlines for DNOs to provide quotes to customers wanting connections, for contacting the customer after quotes have been issued, and for completing the connection work itself. The standards also cover the time DNOs take to repair faults on unmetered networks, for example those that serve street lighting.
If the companies breach any of the standards they must pay compensation to customers ranging from £10 per day to £200 per working day, depending on the nature of the breach.
Ofgem website, 12/10/10

Ofgem To Review Regulatory Framework In Light Of Dartford Power Cuts

Ofgem has welcomed the decision by EDF Energy Networks to offer goodwill payments to customers and to make a donation to the community affected by extensive power cuts in the Dartford area in July 2009 and concluded that there is no evidence that any actions (or lack of actions) by the company caused the event to happen. It also said the company took appropriate steps following the event to limit the number of customers that had their supplies interrupted, and to restore supplies quickly and efficiently. However, Ofgem believes the incident highlighted aspects of the company's performance that may fall short of best practice. Ofgem will now review the regulatory framework to ensure companies have an incentive to keep under review their procedures to protect critical parts of their networks.

Ofgem website, 22/10/10

Austria

Regulator Approves Long-Term Gas Network Plan

The 2010 long-term plan for the Austrian gas network is the result of a planning process involving the Austrian Gas Grid Management company (AGGM) together with the relevant gas network operators. AGGM submitted the 2010 long-term plan to the Austrian regulator, E-Control, for approval. It is based on a demand forecast that is slightly higher than in the previous year, mainly due to new power generation projects. E-Control approved the long-term plan, on condition that AGGM present by the end of the year a plan to connect the "7 Fields" storage project directly to the gas network. (The 2bcm project is currently being developed by RAG and E.ON, but with no planned connection to the control area.)

E-Control website, 07/10/10

New Draft Energy Laws Presented

The Austrian economic and energy minister has presented a legislative package necessary for the implementation of the EU third energy market package.
The package plans amendments to the electricity industry and organisation law (ElWOG) and the energy regulatory authorities law (E-RBG). According to the drafts, customer switches would have to be implemented in at most hree weeks and socially disadvantaged consumers would enjoy greater protection. The amendments to the ElWOG would also create the legal framework for efficient introduction of smart electricity meters.
The amendments would also change the determination of network tariffs in

the future: the regulator E-Control would determine the cost basis by administrative decision (Bescheid), while the actual tariffs would be determined by decree (Verordnung) of the Regulatory Commission (Regulierungskommission). Network operators would in future be able to appeal E-Control's administrative decisions to the Regulatory Commission and the higher administrative court (Verwaltungsgerichtshof) and/or the constitutional court (Verfassungsgerichtshof), thereby providing network operators with more legal protection. Another key point was the unbundling of electricity transmission system operators from other activities of a vertically integrated utility. The draft amendments offer the affected companies (Verbund, TIWAG, VKW) three possible models of unbundling. Finally, E-Control would be restructured to become a public institution headed by two members.
Bundesministerium für Wirtschaft, Familie und Jugend webpage, 15/10/10

Belgium

Regulator Recommends Revision Of Electricity Index

The Belgian regulator, the Commission de Régulation de l'Electricité et du Gaz (CREG), has recommended an update to the parameter "Nc". This parameter is used by most electricity suppliers in variable price contracts for domestic customers and certain industrial customers. The parameter is meant to reflect the price changes in fossil fuels and nuclear materials that are used to produce electricity in Belgium. CREG said that Nc was calculated using a formula from 2002 based on the fuel mix in Belgium at that time. CREG mentioned four reasons for the limited representativeness of the parameter today: (1) most of the reference values in the formula no longer reflect reality, for example more electricity was produced today using gas than in 2002; (2) essential variables are missing from the formula, such as electricity production from biomass; (3) the formula takes no account of sources of supply that appeared with liberalisation, such as purchases on power exchanges; and (4) the formula takes no account of the fuel mix of new suppliers that have entered the liberalised market.
Commission de Régulation de l'Electricité et du Gaz website, 26/10/10

Bulgaria

SEWRC Sets Forest Biomass Feed-In Tariff

The State Energy and Water Regulation Commission (SEWRC) has set a feed-in tariff for electricity generated by power plants with over 5 MW of capacity running on forest-waste biomass. SEWRC set the tariff at Lev 222/MWh (€114/MWh) excluding value added tax. SEWRC's calculations assume a 15-year operating life, investment costs of €2,100/kW, fixed operation costs of 1.3 €cents/kWh, and biomass fuel costs of 7 €cents/kWh.

SEWRC website, Res. C-038, 27/09/10; Platts Energy in East Europe, 08/10/10

European Union

Commission Approves Acquisition Of Pražská plynárenská By E.On

The European Commission has approved the proposed acquisition of Czech gas company Pražská Plynárenská A.S. by E.On Czech Holding AG, a subsidiary of German energy holding company E.On, that is already active in the storage, distribution and supply of gas to end-customers as well as in the production, distribution and supply of electricity. Pražská Plynárenská is active in the distribution and supply of gas as well as in the supply of heat in the Czech Republic. The acquisition was reviewed under the simplified merger procedure.

European Commission website, 13/10/10

European Commission Authorizes The Netherlands To Provide A US$ 209 Million Aid For CO2 Capture And Storage

The European Commission (EC) has authorised the US$ 209 million State Aid that the Dutch government was planning to give to a joint venture between GDF Suez and E.On for a project on CO2 capture and storage (CCS). These two energy companies plan to capture 1.1 million tons of CO2 per year from a coal-fired power plant that E.On owns in the vicinity of Rotterdam. The captured CO2 will be transported and stored in the North Sea. The EC considers that the aid complies with EU State Aid rules on compensation, as the project –which would not be feasible without the aid – is necessary for the Netherlands to comply with its 2020 objectives. In addition, the Commission considers that the benefits of this venture exceed the negative effects it could possibly have on trade and competition.

EUROPA Press Releases, 27/10/10; Reuters Africa, 27/10/10

France

Regulator Approves New Gas Price Schedule Of Gaz De Bordeaux

Under the Decree of 18 December 2009 on regulated gas tariffs, Gaz de Bordeaux submitted on 8 September 2010 a proposed schedule of its regulated prices for approval by the French energy regulator, the Commission de Régulation de l'Énergie (CRE). The proposal reflects changes in Gaz de Bordeaux's upstream supply costs and implies a reduction of 0.3948 €cents/kWh compared to the pricing schedule in place since July 2010. The formula for calculating changes in Gaz de Bordeaux's supply cost was published in a Decree of 29 June 2010 and is based on an indexation to the price of heavy fuel oil and heating oil. The CRE found that the proposed pricing schedule was consistent with the tariff formula.

Commission de Régulation de l'Énergie website, 30/09/10

Regulator Approves Decrees Setting Regulated Tariffs Of Gas Utilities

Under the Decree of 18 December 2009 on regulated gas tariffs, the ministers of economy and energy have asked the French energy regulator, the Commission de Régulation de l'Énergie (CRE), for an opinion on two draft decrees setting the regulated gas tariffs of Energy Services Occitan (Ene'O) and Enerest. The draft decrees also set down a formula for estimating changes in the upstream supply costs of the two gas utilities, which are approximated by the weighted average cost of supply over the three months preceding a tariff change, with a lag of one month. The CRE has verified the relevance of these formulae. In the future, changes in tariffs will result from application of these formulae and will be approved directly by the CRE. The costs of the two gas utilities include their upstream supply costs and the marketing costs, as well as a reasonable profit margin. The CRE has issued a favourable opinion on the draft decrees.

Commission de Régulation de l'Énergie website, 30/09/10

Regulator Consults On Future Of Gas Balancing

The French gas TSO, GRTGaz, has submitted for approval by its regulator (CRE) a proposal for the balancing regime in its transmission network in 2013. The CRE also examined the balancing regime in the transmission grid of TIGF. On GRTgaz's proposal, the CRE said that its balancing regime had evolved towards a regime founded on market principles and that GRTgaz now proposed, inter alia, to enhance incentives for daily balancing. The CRE approved the principles proposed by GRTgaz. On TIGF's balancing regime, the CRE said that the

current system was working well, but that the low liquidity in that area did not allow TIGF to balance frequently through market interventions. The CRE asked TIGF to submit an assessment of its balancing regime and a study on the changes needed to conform to the principles of European legislation (Directive 2009/73/CE, European Regulation number 715/2009, and ERGEG's draft guidance framework).
Commission de Régulation de l'Énergie website, 30/09/10

Regulator Approves Gas Tariffs

The Ministers of economy and energy asked the French energy regulator (CRE) for advice on the new tariff schedules of a number of distribution companies, under Article 7 of the law number 2003-8 of 3 January 2003 and the Decree of 21 December 2007 on regulated gas tariffs of local distribution companies and TEGAZ. The companies involved are Gaz Electricité de Grenoble, GEDIA, Energies Services Lannemezan, Régie municipale de La Réole, Energies Services Lavaur, Regiongaz, Energie et Services de Seyssel, Sorégies, Vialis, Régie de Villard Bonnot, Régie municipale d'Aire sur l'Adour, Régie de Bazas, CALÉO, Régie municipale Energis. The CRE approved all the tariff schedules submitted by the companies.
Commission de Régulation de l'Énergie website, 30/09/10

Regulator Clarifies Application Of Exemption To Third Party Access

Article 14 of the law of 10 February 2000 gives the TSO responsibility for developing the public transmission network and for allowing interconnections with other networks. Article 7 of European Regulation (EC) No 1228/2003 on conditions for access to the network for cross-border exchanges in electricity determines the conditions in which a new interconnection may be exempted by the regulatory authorities of all or part of the regulation in force in terms of third party access, approval of the pricing methodology and allocation of revenues generated by the allocation of interconnection capacity. The French regulator, CRE, said that the concept of "new exempt interconnectors" in Community law had not been clarified in French law and that it was therefore necessary to clarify the regulatory framework which would fit such projects and define requirements appropriate to their specific needs in order to enable their integration into the French regulated system. The CRE made a number of recommendations.
Commission de Régulation de l'Énergie website, 30/09/10

Regulator Approves Sale Of Bundled PEG North – Zeebrugge Hub Capacity

The French and Belgian gas TSOs, GRTgaz and Fluxys, plan to launch the sale of bundled monthly capacity for transporting gas from the Zeebrugge Hub in Belgium to the French gas exchange area “PEG North”. According to a press release by GRTgaz, market participants will only need “a few mouse clicks” to buy in one single package cross-border gas transmission capacity between both trading points. Monthly Zeebrugge Hub/PEG North capacities for December 2010 will be available through the electronic platform “capsquare”. The French regulator, CRE, approved the bundled capacity sales, after GRTgaz submitted the proposal for approval.

Commission de Régulation de l’Énergie website, 30/09/10; GRTgaz website, 12/10/10

Regulator Approves Allocation Rules Of LNG Terminal Capacity

The operator of the Fos Cavaou LNG terminal, Société du Terminal Méthanier de Fos Cavaou (STMFC), has submitted for approval by the French regulator, the CRE, a proposed allocation mechanism for short-term capacities at the terminal. The CRE’s decision of 15 December 2003 requires STMFC to offer at least 10% of the terminal’s capacity, or 0.825bcm, on a short-term basis. The CRE’s decision of 16 May 2007 specified that the capacity should be allocated on conditions favouring the development of competition in the South of France. Moreover, GDF Suez agreed with STMFC that 0.175bcm of capacity that GDF Suez agreed to make available in commitments to the European Commission (COMP/B-1/39.316), would be sold in conjunction with the 0.825bcm of capacity. Hence STMFC will be selling 1bcm of capacity in total on a short-term basis from 1 January 2011. The CRE approved the proposed allocation mechanism on condition that STMFC modifies the rule giving priority to qualified bidders who do not have an access contract to Fos Cavaou at the time of the sale and qualified bidders that have an access contract resulting from the sale of capacity under GDF Suez’s commitments.

Commission de Régulation de l’Énergie website, 07/10/10

Regulator Approves Cost Recovery Of Demand Side Balancing

The French regulator, the Commission de Régulation de l’Énergie (CRE), has approved a proposal by the French electricity TSO, RTE, to include the capacity charges of demand side balancing contracts in the “balancing account” (“compte Ajustements-Ecarts”), which will allow these costs to be recovered through transmission tariffs. In the winter 2008/2009, RTE already signed, on an “experimental” basis, some capacity contracts with consumers connected

to the transmission grid. The consumers agreed to submit offers for demand reduction into the balancing mechanism when requested by RTE. In the first half of 2010, RTE drew up new rules that took into account the lessons from the first experiment. RTE plans to launch a tender for one-year demand balancing contracts before the end of October 2010 with consumers connected to the transmission grid on the basis of the new rules.
Commission de Régulation de l'Énergie website, 14/10/10

Regulator Publishes Third Wholesale Market Report

The French energy regulator, the CRE, published its third report on the functioning of wholesale energy markets covering the period 2009 to 2010. The CRE observed that gas wholesale prices fell significantly and that market prices had disconnected from the reference prices in long-term gas contracts, which are indexed to oil prices. On the electricity wholesale market, the CRE said that prices had experienced some "tensions" with a peak of €3,000/MWh (US$4,300/MWh) occurring on 19 October 2009. The CRE also said that its role of monitoring the markets was reinforced through cooperation with the Financial Markets Authority (Autorité des Marchés Financiers, AMF) defined by the law on banking and financial regulation. That law was adopted by the National Assembly on 11 October and extends the mission of the CRE into the analysis of economic and technical explanatory factors, and the trades made on carbon markets.
Commission de Régulation de l'Énergie website, 25/10/10

Germany

Increase In Renewable Surcharge Announced

The German regulator, the Bundesnetzagentur (BNetzA), said that the Renewables Surcharge ("EEG Umlage") will increase from 2.047 €cents/kWh in 2010 to 3.53 €cents/kWh in 2011 (2.83 UScents/kWh to 4.88 UScents/kWh). The increase had been announced earlier by the German TSOs and the BNetzA is responsible for auditing the TSOs' calculations. The TSOs are obliged to sell electricity from renewable sources ("EEG electricity") through the power exchange. The difference between the feed-in tariffs paid by TSOs for EEG electricity and the prices received for selling it through the power exchange is financed by the renewable surcharge. The BNetzA said that the sharp increase in the EEG surcharge could be attributed to a number of different factors, above

all, the increase in the overall sum of remuneration payments to EEG plant operators. For 2010, these payments were predicted to be €12,700 million (US$17,500 million), but for 2011 they were expected to be in the region of €17,100 million (US$23,600 million), €8,000 million of which was for solar power plants alone. Owing to an amendment to the Renewable Energies Law (EEG) this year, the average remuneration for the feed-in of solar energy was likely to fall by more than 5 €cents/kWh, said the BNetzA.
Bundesnetzagentur website, 15/10/10

Competition Watchdog Publishes Opinion On Government's "Energy Concept"

The German competition watchdog, the Bundeskartellamt (BKartA), has published its opinion on the government's "Energy Concept". On the extension of the lifetime of nuclear plants, the BKartA said that this measure could have price-dampening effects, but it also carried the risk of reinforcing the market position of the four big electricity generators (RWE, E.ON, Vattenfall and EnBW). The BKartA welcomed the government's proposal of establishing a "market transparency office" (Markttransparenzstelle), as the continuous monitoring and analysis of energy markets was central to the future competitive development. However, the BKartA also said that providing too much information might have anti-competitive effects by promoting cartel agreements and reaction patterns that were not competitive. The BKartA also said that an important area for the creation of competitive structures was the production and trade of electricity from renewable energy sources, and therefore welcomed the government's desire to open this area to more competition. The BKartA in particular mentioned possible incentives that take more account of electricity prices on exchanges and the possibility, little used at present, of plant operators directly marketing renewable electricity themselves.
Bundeskartellamt website, 21/10/10

Government Reduces Green Tax Exemptions Of Companies

The German government said that it was sticking to its goal of reducing certain companies' exemptions from environmental taxes and that as a consequence many companies would have to pay more energy and electricity taxes next year. However, the government said that it would reduce the exemptions by less than initially planned, because many companies in energy intensive sectors would have had difficulties in coping. The government said that companies in other countries paid less energy taxes than in Germany.
Bundesregierung website, 28/10/10

Parliament Approves “Energy Concept 2050”

The German lower house, the Bundestag, has approved the government’s “Energy Concept 2050” and the related laws. The government said that Germany would obtain the most efficient, most environmentally compatible and most competitive energy supply globally. The Energy Concept includes about 60 “concrete” measures and a “10-point-immediate programme” setting up important projects by the end of 2011. The government emphasised the importance of electricity networks, saying that about 3,500km of new lines would be needed. The parliament also decided to extend the lifetime of nuclear power plants and to set up a special “energy and climate fund” into which nuclear power plant operators will be paying contributions. The government said that any revenues from the sale of carbon allowances, above the planned level, would also be paid into that special fund. The fund will be used to finance, among other things, energy efficiency measures and renewable energy sources. Finally, the parliament decided to impose a tax on nuclear fuels used to generate electricity of €145 per gram of fuel. The government said that some of the proceeds would be used to rehabilitate the “Asse II” mine, where disposal of radioactive waste had been tested.

Bundesregierung website, 28/10/10

DB Energie Ordered To Allow Third-Party Network Access

The German networks regulator (BNetzA) has ordered DB Energie, a daughter company of German rail operator Deutsche Bahn, to allow other power suppliers access to its distribution grid and to let customers choose their power supplier at the latest from 1 February 2011. Until now, DB Energie had pointed to a specific section of the German Energy Law (EnWG), under which its distribution network would be exempted from allowing other power suppliers access to its network, ignoring a 2008 decision of the European Court of Justice that such an exemption violates the European Internal Electricity Market Guidelines. DB Energie operates 50Hz networks in about 5,000 locations in Germany. These networks are used principally for company-owned installations, but also to supply third-parties such as shops in rail stations. The BNetzA has now given DB Energie a timeframe and a number for conditions on how to allow access to its network.

Bundesnetzagentur website, 28/10/10

BNetzA Reduces Tariffs For Photovoltaic Power Generators

The German networks regulator, the Bundesnetzagentur (BNetzA), has reduced the regulated tariffs for new photovoltaic power generation installations in 2011 by 13% on average. As a result, photovoltaic installations coming online in 2011 will receive a regulated feed-in tariff of between 21.11 and 28.74 €cents per kWh of electricity fed into the network. The BNetzA's decision applies the methodology set out in the German Renewable Energies Law (EEG) in which the feed-in tariffs are adjusted according to the volume of new capacity coming online. According to the BNetzA, around 2,000 MW of new photovoltaic power generation capacity became operational in June 2010, which exceeded the total for the first five months of 2010. From January 2010, a total of 5,250 MW of new photovoltaic capacity was installed, as compared to 3,800 MW for the year 2009.
Bundesnetzagentur website, 29/10/10

Italy

Oil Exchange To Encourage Transparency In Prices And Market Efficiency

The under-secretary of the Ministry of Economic Development and the Commissioner of the energy regulator proposed to create a European oil exchange to avoid speculation and to increase market efficiency, in order to avoid sudden rises and falls in oil prices that could damage consumer countries. Such a market would benefit both oil consumers and producers and would guarantee adequate investments in the oil sector. In recent years, price volatility in the oil market has increased, with oil prices reaching historic peaks of about US$144 per barrel, and collapsing down to US$35 within a few months, only to increase again to the current value of about US$80. The project to create an oil exchange to avoid speculation aims at creating a European regulated oil market to prevent such increases in volatility in the future. The new oil exchange will be open to selected operators and should be managed by a reliable central European counterpart (for example the EIB or similar institutions), able to guarantee the negotiation of standardized products on long term or very long term (20 or 30 years) with physical delivery in the European Countries.
Aeeg website, 27/10/10

Netherlands

Tennet To Appeal Regulatory Method Decision

Tennet, the Dutch electricity transmission system operator, has announced an appeal against the latest regulatory method decision for electricity transmission, published last month by NMa, the Dutch competition authority. NMa announced last month that the new method decision allowed an increase in transmission tariffs to accommodate investments in the transmission grid. Tennet now says on its website that the new tariffs are still insufficient to cover the costs of past investments. Moreover, Tennet expects a further increase of tariffs over the next few years, as a result of further network investments.

Tennet website, 28/10/10

Portugal

Government Sets Target For Renewables

The Portuguese government has issued an 'energy and climate' package that sets minimum targets for the country's production of energy from renewable energy sources by 2020. According to this package, renewable energy will represent a minimum of 31% of the country's total production of energy, a figure that is higher than the 20% target set by the European Union.
The package also sets a minimum of 10% from renewables in the transport sector, a target that the government plans to achieve through electric vehicles and biofuels.

Actualidades, 21/10/10; Jornal de Notícias, 22/10/10

Russia

UN Approves E.ON Joint Implementation Project In Russia

The United Nations gave approval to German utility E.ON to pursue a joint implementation (JI) project in Russia. The project involves building an energy efficient 400MW CCGT in Russia, near Moscow, in cooperation with the Russian wholesale generation company OGK-4, which is also owned by E.ON. JI schemes are a part of the Kyoto Protocol which enable cross border investments in reducing greenhouse gas emissions. As a result of this investment, E.ON will receive Emission Reduction Units (ERUs) that can be used in the EU Emissions Trading Scheme.

E.ON Website, 18/10/10; Datamonitor, ADPnews, 19/10/10

Spain

The Government Approves Legislation To Increase The Use Of Domestic Coal In Electricity Generation

The Spanish government has approved a Royal Decree that sets an annual minimum quota for electricity generated using domestic coal, and provides for a new non-market mechanism to accommodate output from this source. The draft legislation was approved by the European Commission last month. This procedure started in February when the government published the first version of the legislation, but the Royal Decree approved at the time did not comply with European law. The Spanish government alleges reasons of security of supply for imposing this obligation on coal generators. This piece of legislation has been challenged by the main electricity companies. The Spanish National High Court is expected to issue a decision on this matter in the next few days.

Cinco Días, 30/10/10; El Economista, 01/10/10; Cinco Días, 02/10/10

Competition Authority Launches Investigation On The Association Of Natural Gas Companies For Alleged Anticompetitive Behaviour

The National Competition Commission (CNC) has launched an investigation into the Spanish Gas Association (Sedigas) for allegedly coordinating the estimation of costs used in the mandatory review of domestic gas installations. The CNC is investigating whether gas distributors associated under Sedigas drafted a joint cost estimation report. This report was sent to the regional governments, which are responsible for setting the regulated charges for the review that consumers are required to perform on their boilers every 5 years. The CNC's investigation could last up to 18 months.

CNC website, 08/10/10

Natural Gas Supply Of Last Resort Auction Held

The third auction for the purchase of six-monthly forward base-load gas contracts to supply Spanish customers under the Tariff of Last Resort was held on 26 October. The auction attracted offers of 2,400 GWh at a fixed price of €21.30/MWh (US$29.51/MWh). These prices, together with spot market and oil prices, are used to revise Gas Tariffs of Last Resort on a quarterly basis. Auctions for the Gas Supply of Last Resort take place every 6 months.

OMEL Subastas website, 26/10/10; Intermoney Energía, 27/10/10

Turkey

Turkey To Start Privatisation Of Power Generation Sector

At a press conference on 6 October, the deputy Chairman of the Privatization Administration of the Turkish Prime Ministry, Ahmet Aksu, announced an open tender for the privatization of the Hamitabat power plant in Luleburgaz, in the north-western province of Kirklareli. The Hamitabat power plant will be the first power plant to be privatised in Turkey. According to Aksu, the further privatisation of the power generation sector is a priority for the government in 2011.

Worldbulletin website, 06/10/10; Asia pulse via Dow Jones Factiva, 07/10/10

NORTH AMERICAN NEWS

US

FERC Fines South Jersey And Affiliate For Violating Capacity Release, Shipper-Must-Have-Title, And Buy-Sell Rules

FERC has fined South Jersey Gas Co. and South Jersey Resources Group LLC US$950,000 for violating regulations governing "flipping" rate capacity, shipper-must-have-title and buy-sell rules. The companies must also repay US$120,550 plus interest in unjustly earned profits. The case arose out of an earlier case involving Constellation New Energy, which self-reported "flipping transactions" where South Jersey Gas was the releasing shipper.

www.ferc.gov, 27/09/10; Foster Natural Gas Report, 01/10/10

US Leases First Offshore Wind Project

US Secretary of the Interior Ken Salazar has signed the nation's first major offshore wind project contract, granting a 28-year lease in Nantucket Sound, Massachusetts to Cape Wind LLC for a 130-turbine wind farm. The proposal endured a nine-year regulatory process and was protested by Cape Cod homeowners and other opponents. Rent for Cape Wind LLC will be US$88,278 a year before it begins production, then an annual fee of 2%-7% of revenue the company earns. The terms are designed to give the company lower expenses in the earlier, riskier years. Secretary Salazar announced that after this long-awaited "pioneer" wind farm, future offshore and wind farm approval processes will be more efficient.

Reuters, 06/10/10; Platts Commodity News, 06/10/10

FERC Denies All Environmental And Procedural Challenges To El Paso's Ruby Pipeline

Final appeals against the construction of El Paso's Ruby Pipeline will not go ahead. FERC has denied requests from environmental groups and rancher associations for a rehearing of its final order made on 5 April 2010. The parties argued that the Commission's environmental analysis was deficient for various reasons but, in a detailed order, FERC disagreed and allowed its original final order to stand.

www.ferc.gov, *06/10/10; Foster Natural Gas Report, 08/10/10*

Kentucky PSC Approves PPL Acquisition Of E.ON US, With Conditions

The Kentucky Public Service Commission has approved PPL Corp.'s proposal to purchase German firm E.ON US for US$7,600 million, with conditions. The deal would allow PPL to acquire Kentucky's two largest electric utilities, Louisville Gas & Electric and Kentucky Utilities. PPL still needs approval from Virginia and Tennessee regulators and the Federal Energy Regulatory Commission.

The conditions imposed by the Kentucky PSC -- and agreed to by PPL -- bar PPL from divesting LG&E's natural gas utility, unless an independent analysis finds it to be beneficial to ratepayers. Most of the E.ON US business is coal-fired, but according to the PSC, "LG&E's electric and gas customers benefit from cost savings that are the direct and sole result of LG&E being a combination utility." Other provisions protect against large layoffs, establish PSC authority, and mandate reporting on energy efficiency in other PPL-serviced states.

Electric Power Daily, 01/10/10; Global Power Report, 07/10/10

FERC-Sponsored Study Finds US$1.3 Billion In Benefits If Entergy And Cleco Join An RTO

A FERC-sponsored study has concluded that if independent power producers Entergy and Cleco were to join the regional transmission organization Southwest Power Pool, ratepayers of all three would realize net benefits of US$1,290 million over 10 years. The report was welcomed by market participants in the Southeast who have long complained that Entergy operates its grid in a manner that hinders competition. Both companies already have a relationship with SPP: the RTO currently ensures that Entergy operates fairly and it oversees Cleco compliance with national reliability rules. Cleco and Entergy both point out the caveat of the report: that the savings are dependent on how SPP decides to allocate potential future costs. Entergy has contracted a follow-up report on the net benefits of joining a different RTO, the Midwest Independent System Operator.

Electric Power Daily, 01/10/10; Global Power Report, 07/10/10

NRC Chairman Ends Work On Yucca Mountain Project Prior To Approval

Nuclear Regulatory Commission Chairman Gregory Jaczko has ordered NRC staff to discontinue work on the nuclear waste repository site at Yucca Mountain. The NRC is a month away from releasing the already-written third volume of its safety evaluation report. The NRC said work on the project was halted due to the fact that President Obama's budget for the fiscal year beginning 1 October 2010 calls for a closure of Yucca; thus it would be a waste of resources to continue working on a terminated project. Critics argue that is a premature decision since the budget has not been formally approved by Congress. Further, NRC commissioners have not yet held a vote on the legality of Energy Secretary Steven Chu's March 2010 decision to end the Yucca project.
The Las Vegas Review-Journal, 07/10/10; Inside NRC, 11/10/10

NIST Issues First Five Smart Grid Standards To FERC

The National Institute of Standards and Technology has issued its first five smart grid standards to FERC. The standards will ensure uniform and interoperable communications systems throughout the grid. The standards were designed to be able to accommodate new technology as it becomes available. The first two standards provide a common informational model for exchanges of data; the third facilitates substation automation and communication; the fourth facilitates exchanges of information between control centres; and the last addresses the cyber-security of the communications in the preceding standards. FERC will issue a notice of proposed rulemaking seeking comments on the standards. Currently, FERC does not have authority to enforce the standards.
Electric Power Daily, 08/10/10; Inside F.E.R.C., 11/10/10

Electric Utilities Disturbed By DOE Energy Efficiency Rules

The US Department of Energy has issued a proposal announcing changes in the way it calculates energy saving and greenhouse gas emissions reductions expected to result from tighter energy efficiency standards for consumer and commercial products. The new measure being considered for the first time will use a "full-fuel-cycle" measurement will include both point-of-use energy consumption and energy consumed in extracting, processing, and transporting primary fuels and the energy losses associated with generation, transmission, and distribution of electricity. The changes were proposed in August and utility officials noted in October that the DOE has already begun to implement the policy, incorporating it in new efficiency standards for residential water heaters and refrigerator-freezer units.
Energy Washington Week, 25/08/10; Electric Power Daily, 11/10/10

Department Of Justice Investigates Entergy's Competitive Practices

Entergy Corp. announced that, on 24 September 2010, the US Department of Justice notified the company that its four utilities operating in Louisiana, Arkansas, Mississippi, and Texas were being investigated for anticompetitive practices related to generation procurement, dispatch, and transmission system practices and policies. Merchant generators and municipal utilities in the Southeast have been complaining about Entergy's alleged anti-competitive practices for a decade. They say Entergy has avoided upgrading its transmission system, keeping it congested for potential competition. As a result, independent companies that had built dozens of gas plants were unable to sell power and were forced into bankruptcy or distressed sales. Since 2004, Entergy has purchased five of those distressed plants, has one pending, and announced in August that it plans to buy an additional three, all well below construction costs. The company announced that has not done anything improper and it is fully cooperating with the DOJ investigation.

Reuters, 12/10/10; Power Market Today, 13/10/10

Following Ruling, ComEd Asks Illinois For Ratemaking Fix For Smart Grid Program

An Illinois state appeals court has essentially killed Commonwealth Edison's smart grid pilot program with a ruling stating that the Illinois Commerce Commission was wrong to allow utility Commonwealth Edison to pass on US$5 million in certain smart grid costs to its customers. Following the ruling, ComEd asked Illinois regulators to approve a scaled-down version of the pilot program and permission to add the costs of the new program to the utility's rate base. According to ComEd, this temporary measure would allow the utility to finish the study, but would not be a long-term solution.

Penton Insight, 20/10/10; Energy Washington Week, 05/11/10

Georgia Utility Regulators Approve US$26 Million Gas Rate Hike; About Half Of What Company Sought

The Georgia Public Service Commission has permitted Atlanta Gas Light to raise its rates by roughly US$26 million, about half the amount sought by the company, but the PSC ruled that the company could only collect about US$4.4 million in so-called "phantom costs". AGL had asked for US$14 million in such costs but the PSC allowed them to charge customers for only 25 per cent of the efficiency savings achieved by buying a New Jersey utility in 2005. The commission also set the company's ROE for the year at 10.75 per cent. The average customer will see a monthly increase of approximately US$0.91 a month.

Associated Press Newswires, 27/10/10; http://www.psc.state.ga.us, 02/11/10

Mexico

Government Approves Directive That Will Introduce Competition In The Liquefied Petroleum Gas Market

The Department of Energy approved a new Directive on the prices and tariffs for liquefied petroleum gas. This Directive will replace the current remuneration framework, which sets a national uniform maximum wholesale price–based on estimations of inflation and storage costs–and defines a mark-up for commercialisation (retailing). Under the new scheme, the government will set different maximum prices for retailers operating in different geographical areas according to their operating costs (mainly determined by shipment distances and volumes provided), market conditions and international prices. This methodology for determining maximum prices aims to provide the right incentives for cost reductions and price competition among suppliers. This Directive will not take effect until the government repeals the current Decree which dictates uniform wholesale prices.

Diario Oficial de la Federación de México website, 14/09/10; El Financiero, 18/10/10

ASIA PACIFIC NEWS

Australia

Government Releases Report Into Energy Efficiency

The Australian government has released the report of the Prime Minister's Task Group on Energy Efficiency. The report was commissioned to provide advice on the development of policy aimed at strengthening Australia's response to climate change and to reduce pressure on Australia's energy costs. The report stated that the most important component of any improvement in Australia's energy efficiency is the presence of an explicit price on carbon. In addition to a carbon price, the report recommended setting a national energy efficiency target of improving primary energy intensity by 30 per cent by 2020, establishing an energy savings initiative, resetting the government's framework for energy efficiency, providing a stronger environment for energy efficiency and building an energy efficiency culture in Australia. The recommendations of the report are to be considered as part of the government's energy white paper process.

Minister for Resources and Energy website, 08/10/10

Roll Out Of National Energy Customer Protections

The South Australian Parliament has introduced legislation to implement the National Energy Customer Framework (NECF). In Australia, the NECF is a major reform initiative of the Ministerial Council on Energy (MCE) aimed at harmonising regulation and providing consistent, nationwide consumer protections in the energy sector. Currently, the regulations governing the sale and supply of energy to customers are different across Australia's states and territories. In this initiative, South Australia is the lead legislator for the MCE legislation, so that once passed through the South Australian Parliament this legislation will allow other jurisdictions to adopt the NECF in coming years.
Minister for Resources and Energy website, 28/10/10

Australian Energy Regulator Rejects Significant Price Rises By Victorian Electricity Distributors

The Australian Energy Regulator (AER) has released its final determination on electricity distribution in Victoria, drawing the conclusion that the proposed increases in network expenditure were not justified. In response to the AER's draft determination the Victorian distributors applied to spend 70% more on capital expenditure over the next regulatory period than in the last period. The final determination allowed distributors a total of 45% more capital expenditure over the upcoming regulatory period, which is in part to replace ageing infrastructure - built in the 1960s and 1970s - to meet new bushfire safety standards and maintain reliability in the face of growing costs and demand. The AER's decision applies to five electricity distributors in Victoria: CitiPower, Powercor, SPAusNet, United Energy and Jemena Electricity Networks, for five years from January 2011 to December 2015. The result will see increases in network charges in the first year of around 4.4% on average, and further increases of around 6.5% in each of the following four years.
The Australian Energy Regulator website, 29/10/10

New Zealand

Commerce Commission Releases Final Consultation On Input Methodologies For Electricity Distribution Services

The Commerce Commission has released for technical consultation a revised draft determination on the input methodologies for electricity distribution services. The purpose of input methodologies is to foster certainty for suppliers and consumers in relation to the rules, requirements and processes applying to the regulation, or proposed regulation, of goods or services under Part 4 of the Commerce Act 1986. During June to September of this year, a consultation was held on the draft decisions for the input methodologies. The Commerce Commission is now seeking submissions on whether the revised draft determination gives effect to the updated draft decisions. The Commerce Commission has stated that once it has considered submissions on the revised draft determination, it will finalise the input methodologies by 31 December 2010.

Commerce Commission Press Release, 22/10/10

China

National Energy Administration Continues Push for Reduced Energy Consumption

The National Energy Administration (NEA) has announced it will continue a programme of mine closures and investments in energy efficiency designed to reduce the carbon-intensity of the Chinese economy. So far this year over 1,000 small coal mines have been closed and government controls have been introduced to reduce the energy intensity of manufacturing production. Despite the long term targets for energy efficiency, the NEA has warned that gas supplies may be tight this winter and has ordered Petrochina to keep gas fields operating at maximum capacity over the winter months.

www.bloomberg.com, *25/10/2010;* **www.platts.com**, *25/10/2010*

India

Orissa Government Injects Cash Into Grid

The Orissa state government has decided to invest Rs 1,200 million (US$272 million) into the distribution system to reinforce the grid, if distribution companies meet loss reduction targets. Despite privatising the distribution grid over a decade ago, the state suffers losses of almost 40% due to old wiring and equipment. The government anticipates that industry will invest Rs 2,400 million over the next four years in addition to the government subsidy.

Press Trust of India, 05/10/10; Orissa Diary, 05/10/10

Maharashtra Regulator Seeks New Licensees

In the wake of rising power prices in the Mumbai suburbs, the Maharashtra Electricity Regulatory Commission has called for applications for the right to distribute power in the city. Reliance Infrastructure is the current incumbent but its licence expires on 15 August 2011. Any national company or consortium with 10 years experience in the field is eligible. Potential applicants include fellow distributors in the state, Tata Power, BEST and Mahavitaran.

Press Trust of India, 05/10/10; Daily News & Analysis, Hindustan Times, 06/10/10

Maharashtra State Cabinet Intervenes In Power Price Rises

The State Cabinet of Maharashtra has asked the Maharashtra Energy Regulatory Commission (MERC) to reverse its earlier decision to allow Reliance Infrastructure to increase power tariffs for consumers in Mumbai's suburbs. Following public outcry in response to MERC's decision, the state cabinet have directed a temporary stay in tariffs, whilst MERC undertakes a fresh inquiry. The decision follows a similar move in June 2009 when the state cabinet intervened to stop power prices from rising for domestic users.

Asian News International, 07/10/10;
Daily News & Analysis, Diligent Media Corporation Ltd, 07/10/10

Philippines

PSALM Shirks Further Privatisation

PSALM, the state-owned agency responsible for privatising the assets of the National Power Corporation is seeking to raise up to US$2,000 million through a bond issue. The move marks a change in strategy, away from privatising Napacor's ageing electricity assets and towards liability management. In a further attempt to improve the financial position of the corporation, PSALM has submitted a request to the Energy Regulatory Commission for it to pass stranded debts amounting to US$1,500 million on to consumers.

www.psalm.gov.ph, *10/15/10; Reuters Businessworld, 29/10/10*

South Korea

Ministry Gives Go-Ahead to 2.5 GW Wind Farm

The South Korean Ministry of Knowledge Economy has given permission for the construction of a 2.5 GW offshore wind farm. The wind farm will come online in 2019 and, with around 500 turbines, will be among the largest wind farms constructed globally at that date. The South Korean government will part finance the 9.2 trillion won (US$8,200 million) investment, which will also involve private companies.

www.bloomberg.com, *02/11/10; The Times, 03/11/10*

About Our Practice

NERA is at the forefront of the continuing transformation of energy industries worldwide. Our experts have developed approaches for introducing competition in segments such as power generation, where competition is workable, and for improving the regulation of sectors where it is not. We work with companies and governmental bodies worldwide to design competitive power markets and to develop tariffs and rules of access for regulated transmission and distribution systems for electricity and gas and transport of oil and oil products. With industry restructuring, we also help companies develop strategies for exploring new opportunities and minimising new risks, including issues related to climate change and other environmental initiatives.

NERA helps our clients to develop new regulatory strategies and, when needed, support our clients with analysis and testimony before regulatory commissions, antitrust and competition policy agencies, and domestic and international courts. Our economists help clients to decide which lines of business to pursue; to divest assets no longer consistent with their strategy; to identify and evaluate opportunities for mergers, acquisitions and investment; and to develop bidding, trading, contracting, and marketing strategies and organisations. Our work also includes designing and conducting energy auctions and providing strategy and valuation advice on mergers and acquisitions, the financing of energy companies, and the financial restructuring of distressed companies.

About NERA

NERA Economic Consulting (**www.nera.com**) is a global firm of experts dedicated to applying economic, finance, and quantitative principles to complex business and legal challenges. For half a century, NERA's economists have been creating strategies, studies, reports, expert testimony, and policy recommendations for government authorities and the world's leading law firms and corporations. With its main office in New York City, NERA serves clients from more than 25 offices across North America, Europe, and Asia Pacific.

Subscribe

NERA produces two newsletters that report and analyse energy matters around the world. *Energy Regulation Insights* summarise NERA's views on the economics behind topical developments in energy sector regulation. Previous issues have discussed regulators' use of "benchmarking", unbundling of networks, regulation of pipelines for CO_2 and other gases, and competition policy in electricity markets. The *Global Energy Regulation* Newsletter compiles brief summaries of news stories about energy regulation around the world. The coverage includes network regulation, industry restructuring, and the organisation of electricity and gas markets. The "GERN" allows energy sector professionals to easily keep in touch with looming problems, the latest developments in regulatory methods, and innovative solutions. To view the latest editions or to receive our newsletters each time they are published, click here: **www.nera.com/newsletters.asp**.

NERA
Economic Consulting

Office Contacts

EUROPE

London
15 Stratford Place
London W1C 1BE
Tel: +44 20 7659 8500
Fax: +44 20 7659 8501
Contact: Graham Shuttleworth

Rome
Via Basento 37,
2nd Floor
00198 Rome, Italy
Tel: +39 06 488 8101
Fax: +39 06 485 838
Contact: Francesco Lo Passo

Madrid
Paseo de la Castellana, 13
Madrid 28046, Spain
Tel: +34 91 212 6400
Fax: +34 91 521 7876
Contact: Oscar Arnedillo

North America

White Plains
50 Main Street, 14th Floor
White Plains, New York 10606
USA
Tel: +1 914 448 4000
Fax: +1 914 448 4040
Contact: Jeff Makholm (Boston),
Gene Meehan (Washington DC)

Australia

Sydney
Darling Park Tower 3
201 Sussex Street
Sydney NSW, 2000
Australia
Tel: +61 2 8864 6500
Fax: +61 2 8864 6549
Contact: Greg Houston, Ann Whitfield

Additional NERA Offices

Auckland, New Zealand	+64 9 373 7230
Beijing, China	+86 10 6533 4395
Boston, MA	+1 617 927 4500
Brussels, Belgium	+32 2 282 4340
Chicago, IL	+1 312 573 2800
Denver, CO	+1 303 465 6844
Frankfurt, Germany	+49 69 710 447 500
Geneva, Swtizerland	+41 22 819 94 94
Ithaca, NY	+1 607 277 3007
Los Angeles, CA	+1 213 346 3000
Melbourne, Australia	+61 3 9623 9800
New York, NY	+1 212 345 3000
Paris, France	+33 1 45 02 30 00
Philadelphia, PA	+1 215 864 3880
San Francisco, CA	+1 415 291 1000
Shanghai, China	+86 21 6335 3358
Tokyo, Japan	+81 3 3500 3290
Toronto, Canada	+1 416 783 3355
Washington DC	+1 202 466 3510
Wellington, New Zealand	+64 4 474 1320

For further information, please visit our global website at:
www.nera.com